

Recommendations of the Specific Learning Disability Work Group to the California Department of Education

In January 2000 the Special Education Division of the California Department of Education (CDE) presented to the Advisory Commission on Special Education a study of research literature on the various criteria used to determine whether a pupil is eligible to be classified as having a specific learning disability (SLD). The CDE paper is titled "Specific Learning Disability Diagnosis in California: A Study of the Criteria for Determining Severe Discrepancy" (2000). CDE then directed a work group of technically astute California practitioners to consider various approaches for making a determination that a pupil qualifies as having an SLD. The charge of the work group was to guide the development and support the implementation of California legislation and regulatory changes in the *California Code of Regulations, Title 5, Section 3030(j)*. Appendix A contains a list of the work group members.

The two sections of this paper are structured according to the charge given to the work group. The first section presents the recommendations and supporting rationale for a **specific learning disability classification**, including the discrepancy criteria contained in 5 CCR 3030(j). The second section contains the group's recommendations regarding the development of guidelines for **intervention and instructional support** that address the instructional strategies and assessment practices required by SLD eligibility criteria in EC 56337c. (See Appendix B for the text changes proposed for EC 56337 and 5 CCR 3030[j].)

Specific Learning Disability Classification

- 1. The work group recommends that use of the current California discrepancy model continue. Alternative approaches should be investigated to determine a severe discrepancy between a pupil's instructional age and intellectual ability.**

The rationale for this recommendation is that, at this time, 5 CCR 3030j(4) already allows alternative means for determining severe discrepancy required by federal regulations as one component of an SLD.

The law currently states the following:

5 CCR 3030j (4)(C) If the standardized tests do not reveal a severe discrepancy as defined in subparagraphs (A) or (B) above, the individualized education program team may find that a severe discrepancy does exist, provided that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of disorder in one or more basic psychological processes.

The SLD Work Group recommended that CDE support research-based demonstration models in local school districts so that alternative methods of identifying SLD pupils may be found, including criteria that are linked to the

district curriculum. The use of instructional age assessments will be more effective in measuring academic performance within the broader range of achievement found in regular education classrooms in California.

The rationale for this recommendation is that, at this time, there is not sufficient evidence to make judgments about California's implementation of laws about specific learning disabilities. Therefore, it is presumptuous to support any changes in the current severe discrepancy formula described in 5 CCR 3030j(4)(A).

2. The work group recommends revising 5 CCR 3030j.

- In 5 CCR 3030j(1), delete "cognitive abilities including association, conceptualization and expression" and add "memory" to the list of basic psychological processes.

The rationale for this recommendation is based on research literature questioning the appropriateness of limiting the definition of cognitive abilities to the areas of association, conceptualization, and expression and current consensus regarding the validity and usefulness of memory as a measure of the psychological process.

- Include 5 CCR 3030j(3), other measures in addition to standardized achievement tests: teacher evaluation and pupil mastery of content standards adopted by the school district.

The rationale for this recommendation is to establish other acceptable measures of pupil performance as required by 5 CCR 3030 so that no single score, test, or procedure shall be used as the sole criterion for determining that a pupil requires special education services.

- Add to 5 CCR 3030j(5) the circumstances described in EC 56337(b):
 - a. environmental deprivation
 - b. economic disadvantage
 - c. cultural differences

The rationale for these revisions is to provide consistency between the circumstances set in California *Education Code* and those in the *California Code of Regulations, Title 5*.

3. The work group recommends revising California *Education Code* Section 56337.

- Add the criteria in 5 CCR 3030j (2)(3):

Intellectual ability includes both acquired learning and learning potential and shall be determined by systematic assessment of intellectual functioning.

The level of achievement includes the pupil's level of competence in materials and subject matter explicitly taught in school and shall be measured by standardized achievement tests, teacher evaluation, and pupil mastery of content standards adopted by the school district.

The rationale for this recommendation is that the language in the California *Education Code* and *California Code of Regulations* needs to be consistent.

- Add to EC 56337 the circumstances described in 5 CCR 3030j(5):

limited school experience
poor school attendance

The rationale for this revision is to provide consistency between the circumstances set in the California *Education Code* and those in the *California Code of Regulations, Title 5*.

- Delete the language of EC 56337 (c): *The discrepancy cannot be corrected through other regular or categorical services offered within the regular instructional program.*
- Replace with the following language: A team of school personnel and the parent(s) (i.e., the Student Study Team, Child Find, etc.) must ensure that the pupil has been provided with learning experiences in the general education setting that is appropriate for the pupil's instructional age and ability level. The team shall determine that the severe discrepancy between the pupil's instructional age and ability level cannot be corrected by modifications to the general education program. Valid and systematic instructional interventions shall be properly documented prior to the referral for special education services.

The rationale for this revision is based on the requirement for measurement of documented systematic instructional interventions in the general education setting as one of the components of identifying a pupil as having an SLD.

4. The work group recommends that the Special Education Division of the California Department of Education provide the following:

- a. The development of a Request for Application (RFA) for funding pilot projects that would devise alternative criteria for identifying pupils with SLD.
- b. The development of local evaluation processes to provide data-based measures to guide policy changes about severe discrepancy criteria.
- c. Training and technical support to ensure effective research-based pilot projects.

The rationale for this recommendation is to establish alternative eligibility criteria in California for the SLD classification.

Intervention and Instructional Support (See Appendix B for the revisions proposed for EC 56337.)

1. The work group recommends that general education interventions be based on the following principles:

- a. Identification procedures shall be coordinated with school procedures for referral of pupils whose needs cannot be met with modification of the regular instructional program. Modifications include intense academic intervention, such as direct instruction, cooperative learning, mastery learning, and authentic curriculum-based, assessment. Assessment approaches are in accord with the California Teacher Standards and content standards adopted by the California State Board of Education. During the intervention period the school will provide ongoing systematic assessment of pupil needs and progress. This assessment will measure the pupil's rate of learning, degree of comprehension, and extent of retention of information.
- b. Systematic interventions through differentiated instruction with measures of levels of pupil performance in the areas of difficulty shall be required. The measures shall yield individual pupil data gathered over time to document the results of direct instruction, cooperative learning, mastery learning and authentic, curriculum based assessment.

The rationale is that a more comprehensive and descriptive process is needed to implement SLD classification requirements that require that the pupil has been "...provided with learning experiences appropriate for the child's age and ability levels; . . . [34 CFR 300.541(a)(1)].

2. The work group recommends that the current regulations and *Education Code* sections be modified to provide:

- a. A clearer description of appropriate systematic instructional interventions in the general education program
- b. A clearer definition of a systematic documentation process
- c. A change in the current language from the term “regular education” to “general education”

The rationale is that current language in the *California Code of Regulations* and the *Education Code* already addresses the need for general education modifications. However, the work group finds that the language must be strengthened to ensure that systematic instructional interventions are fully implemented.

3. The work group recommends that the California Department of Education develop an instructional intervention guideline document for use in the general education curriculum:

- Appropriate instructional interventions based on the California Teacher Standards and content standards adopted by the California State Board of Education
- Process for identifying academically at-risk pupils
- Process for ensuring due process for the child and parents (including informed parental consent)
- Identify appropriate general education staff who might support instructional intervention
- Suggested timelines for intervention implementation and review, but not to exceed 8 to 12 weeks
- Suggested methods for evaluating appropriate pupil progress as a result of academic intervention
- Suggested methods of documentation for monitoring academic intervention and evaluating effectiveness
- Suggested intervention strategies in the classroom and outside of classrooms (e.g., after-school programs, summer school, Saturday school)

The rationale for this recommendation is that general education teachers and parents need access to a resource guide for identifying and instructing pupils at risk of academic failure.

4. The work group recommends that the Curriculum and Instructional Leadership Branch of the California Department of Education develop or provide the following:

- An RFA for funding pilot prevention/intervention projects through site-level instructional support teams across the state

- An evaluation process to measure the success of demonstration projects
- Funding of successful programs to train and provide technical support for other potential pilot projects across the state

The rationale for this recommendation is to encourage a multifunded approach to encourage expansion of pilot projects and provide support to existing programs.

5. The work group recommends that local school districts develop policies and practices in accord with EC 56302 and 56303 to ensure the following:

- Intervention strategies used with all pupils at risk of academic failure and retention are systematically documented prior to referring them for special education services.
- The current level of school site staffing is maintained or increased to support successful intervention strategies.
- The current level of districtwide support personnel is maintained or increased to ensure successful intervention strategies.

The rationale for this recommendation is to provide accountability for local promotion and retention policies and practices that will support site-based instructional programs and encourage creative intervention approaches that will produce an enduring change to California's schools.

Appendix A

Composition of the Specific Learning Disability Work Group

The diverse backgrounds and professional affiliations of members of the work group provided a broad range of perspectives on the necessity for instructional intervention and the SLD classification process. David Raske, Professor of Special Education, California State University, Sacramento, served as the facilitator and chairperson for the group. J. Vincent Madden, Manager of the Assessment, Evaluation, and Support Unit of the Special Education Division and Devena Reed, Special Education Consultant, represented the California Department of Education.

- ◆ Loeb Aronin, Chairperson, California Advisory Commission on Special Education
- ◆ Debbie Baehler, California Association of Resource Specialists and Special Education Teachers (CARS+), President
- ◆ Martin Cavanaugh, Chief of Staff, Elk Grove Unified School District
- ◆ Alan C. Coulter, Research Consultant, Louisiana State University
- ◆ Alnita Dunn, California Association of School Psychologists (CASP) Board Member; Chairperson, Multicultural Committee
- ◆ Adriana Eschandia, Instructor, School of Psychology, California State University, Sacramento
- ◆ Joe Fulcher, School Psychologist, Sweetwater Union High School District
- ◆ Michael Furlong, Professor, School of Psychology, University of California, Santa Barbara
- ◆ Rene Gonzales, Director, Psychological Services, Los Angeles Unified School District
- ◆ Shane Jimerson, Professor, School of Psychology, University of California, Santa Barbara
- ◆ Susan Kawasaki, CARS+, President-elect
- ◆ Marc Lewkowicz, California Learning Disability Association Board Member
- ◆ Allan Lloyd-Jones, School Psychologist, California State Special Schools
- ◆ Sally Lynch, Director of the East County San Diego SELPA
- ◆ Thorn Ndaizee Meyeh, Esq., Public Advocates, Inc.
- ◆ Robin Reves, California Speech-Language Hearing Association Commissioner on Education
- ◆ Jim Russell, CASP Board Member
- ◆ James Tucker, Research Consultant, Andrews University, Michigan

Appendix B

Suggested Revisions to the Education Code and California Code of Regulations, Title 5

*Education Code Section 56337 and California Code of Regulations, Title 5,
Section 3030j*

(Proposed deletions are shown in ~~strike-out~~ type; proposed additions are underlined.)

EC 56337 A pupil shall be assessed as having a specific learning disability which makes him or her eligible for special education and related services when it is determined that all of the following exist:

(a) A severe discrepancy exists between the intellectual ability and achievements in one or more of the following academic areas:

- (1) Oral expression.
- (2) Listening comprehension.
- (3) Written expression.
- (4) Basic reading skills.
- (5) Reading comprehension.
- (6) Mathematics calculation.
- (7) Mathematics reasoning.

(b) The discrepancy is due to a disorder in one or more of the basic psychological processes and is not the result of environmental cultural or economic disadvantages, limited school experience, or poor school attendance

~~(c) The discrepancy cannot be corrected through other regular or categorical services offered within the regular instructional program.~~

(c) A team of school personnel and the parent(s) (i.e., the Student Study Team, Child Find, etc.) must ensure that the pupil has been provided with learning experiences in the general education setting that is appropriate for the pupil's instructional age and ability level. The team shall determine that the severe discrepancy between the pupil's instructional age and ability level cannot be corrected by modifications to the general education program. Valid and systematic instructional interventions shall be properly documented prior to the referral for special education services.

(d) Intellectual ability includes both acquired learning and learning potential and shall be determined by systematic assessment of intellectual functioning.

(e) The level of achievement includes the pupil's level of competence in materials and subject matter explicitly taught in school and shall be measured by standardized achievement tests, teacher evaluation, and pupil mastery of content standards adopted by the school district.

California Code of Regulations, Title 5

5 CCR 3030(j) A pupil has a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations, and has a severe discrepancy between intellectual ability and achievement in one or more of the academic areas specified in Section 56337(a) of the Education Code. For the purpose of Section 3030(j):

(1) Basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, ~~cognitive abilities including association, conceptualization and expression.~~ and memory.

(2) Intellectual ability includes both acquired learning and learning potential and shall be determined by a systematic assessment of intellectual functioning.

(3) The level of achievement includes the pupil's level of competence in materials and subject matter explicitly taught in school and shall be measured by standardized achievement tests in addition to standardized achievement tests. Additional measures will include teacher evaluation and pupil mastery of content standards adopted by the school district.

(4) The decision as to whether or not a severe discrepancy exists shall be made by the individualized education team, including assessment personnel in accordance with Section 53641(d), which takes into account all relevant material which is available on the pupil. No single score or product of scores, test, or procedure shall be used as the sole criterion for the decisions of the individualized education program team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the individualized education program team shall use the following procedures:

(A) When standardized tests are considered to be valid for a specific pupil, a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and standard deviation of 15, the achievement test score and the ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations, and work samples, as appropriate.

(B) When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan.

(C) If the standardized tests do not reveal a severe discrepancy as defined in subparagraphs (A) or (B) above, the individualized education program team may find that a severe discrepancy does exist, provided that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of a disorder in one or more basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in

determining the discrepancy. The report shall contain information considered by the team which shall include, but not be limited to:

1. Data obtained from standardized assessment instruments;
2. Information provided by the parent;
3. Information provided by the pupil's present teacher;
4. Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
5. Consideration of the pupil's age, particularly for young children; and
6. Any additional relevant information.

(5) The discrepancy shall not be primarily the result of limited school experience, environmental deprivation, economic disadvantage, cultural differences, or poor school attendance.